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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SETA SAAD and CHRISTIAN E. SAAD,
individually and as representatives of the
Estate of Raymond Saad,

Plaintiffs,

v.

GUIDANT CORPORATION; GUIDANT
SALES CORPORATION; CARDIAC
PACEMAKERS, INC.; BOSTON
SCIENTIFIC CORPORATION; ASHLEY &
MCMULLEN-WING SUN MORTUARY, a
business entity form unknown, ASHLEY &
MCMULLEN, a business entity form
unknown; and DOES 1 through 20,
inclusive,

Defendants.

Case No: C 08-00053-PJH

**ADMINISTRATIVE MOTION TO HAVE
MOTION FOR REMAND HEARD**

Honorable Phyllis J. Hamilton

Removal Filed: January 4, 2008

**PLEASE TAKE NOTICE THAT THIS COURT HAS JURISDICTION
OVER THIS MATTER DESPITE THE CONDITIONAL TRANSFER ORDER:
PLAINTIFFS RESPECTFULLY REQUEST THAT THE COURT EXERCISE ITS
JURISDICTION AND EXAMINE THE MOTION FOR REMAND.**

On January 28, 2008, the Judicial Panel Filed a Transfer Order of this and other
Guidant cases; however, the order explicitly states that the transfer:

1 order does not become effective until it is filed in the Office of the Clerk of
 2 the United States District Court for the District of Minnesota. The
 3 transmittal of this order to said Clerk shall be stayed 15 days from the
 4 entry thereof. If any party files a notice of opposition with the Clerk of the
 5 Panel within this 15-day period, the stay will be continued until further
 order of the Panel.¹

6 Plaintiffs have filed a Notice of Opposition to the transfer based upon the
 7 impropriety of removal and to afford this Court ample time to hear and consider the
 8 remand issue.² As a result of filing the Notice of Opposition to the transfer, the JPML
 9 will not transfer the case until after this Court has had an opportunity to consider and
 10 rule on the motion for remand. Indeed the JPML Rules explicitly grant parties the right
 11 to stay the transfer in order that parties have the right to address improprieties
 12 concerning federal and/or JPML jurisdiction.³ Moreover, the JPML explicitly recognizes
 13 that this Court may remand the matter and has simply asked to be notified of a remand
 14 (presumably so they will know that the federal court no longer has jurisdiction).⁴ If this
 15 Court grants Plaintiffs' Motion For Remand, Plaintiffs will promptly notify the JPML of
 same.

16 **PLAINTIFFS RESPECTFULLY REQUEST THAT THE COURT EXERCISE ITS**
 17 **JURISDICTION AND EXAMINE THE MOTION FOR REMAND.**

18 Dated: February 4, 2008

19 
 By: Jeremy R. Fietz, Esq. (State Bar No. 200396)
 EDGAR LAW FIRM
 408 College Avenue
 Santa Rosa, CA 95401

22 ¹ JPML Conditional Transfer Order is attached to the Supplemental Declaration of
 23 Jeremy R. Fietz as Exhibit B.

24 ² See Plaintiffs' letter Notice of Opposition dated February 4, 2008, attached hereto as
 Exhibit C.

25 ³ See JPML Rule 7.4 attached to the Supplemental Declaration of Jeremy R. Fietz as
 Exhibit D

⁴ See letter from the JPML attached to the Supplemental Declaration of Jeremy R. Fietz
 as Exhibit E.

PROOF OF SERVICE

I am employed in the City and County of Santa Rosa, State of California. I am over the age of 18 and not a party to the within action. My business address is 408 College Avenue, Santa Rosa, California 95401. On February 4, 2008, I served the foregoing document(s) described as:

ADMINISTRATIVE MOTION TO HAVE MOTION FOR REMAND HEARD

on the interested parties by placing () the original (X) a true and correct copy thereof in a sealed envelope addressed as follows:

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**Attorneys for Guidant Corporation,
Guidant Sales Corporation; Cardiac
Pacemakers, Inc., and Boston
Scientific Corporation**

**Attorneys for Cathay Mortuary Wah
Sang Inc. dba Ashley & McMullen
Mortuary**

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VIA OVERNIGHT MAIL:

VIA : By delivering such documents to an overnight mail service or an authorized courier in an envelope or package designated by the express service courier addressed to the person(s) on whom it is to be served.

☐

VIA U.S. MAIL:

I am readily familiar with the firm's practice for collection and processing of correspondence for mailing. Under that practice such envelope(s) would be deposited with the U.S. postal service with postage thereon fully prepaid, at Santa Rosa, California.

☒

FEDERAL:

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct and was executed on February 5, 2008


JEREMY R. FIETZ